

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Claims 22-37 remain pending in the present application. Claims 30-37 have been withdrawn from consideration.

The disclosure stands objected to because the priority claim does not include the patent numbers for the applications from which the priority is claimed. The specification has been amended, as suggested by the Examiner, to include the patent numbers for the parent applications. Accordingly, applicant respectfully requests that the amendments to the specification be approved.

The Abstract stands objected to as using improper sentence structure. The Abstract has been amended to correct the incomplete sentence structure. Applicant notes that the amendment to the Abstract introduces the phrase “the present invention discloses”, and acknowledges that the M.P.E.P. § 608.01(b) suggests that this language should be avoided. However, it is believed that this language is unavoidable if the first sentence in the Abstract is to be a complete sentence. Moreover, the M.P.E.P. does not prohibit this language. Accordingly, applicant respectfully requests that the amendments to the Abstract be approved.

The Examiner notes that the specification contains the trademark “BiPAP” and recommends that it be capitalized and include generic terminology. Applicant submits that it is correct to use a lower case “i” in this trademark, as this is the actual format of the trademark. In addition, applicant submits that paragraph [19] includes a generic description of this trademark. Namely, paragraph [19] describes BiPAP as being a form of pressure support therapy “in which the pressure provided to the patient varies with the patient’s respiratory cycle so that a higher pressure is delivered during inspiration than during expiration.” Thus, applicant submits that the present specification correctly uses this trademark.

Claims 22, 23, and 25-29 stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. Des. 412,745 to Scheu ("the '745 patent"). In addition claim 24 stands rejected under 35 U.S.C. § 103 as being unpatentable over the '745 patent in view of U.S. Patent No. 6,357,441 ("the '441 patent"). Applicant respectfully traverses these rejections for the reasons presented below.

In rejecting the claims based on the '745 patent, the Examiner acknowledges that the '745 patent does not expressly disclose that at least one of the plurality of headgear attachment points is defined in a second plane that is disposed at a non-zero angle with respect to the first plane. The Examiner takes the position that it would have been obvious to modify the mask taught by the '745 patent so that the headgear attachment points are placed at a non-zero angle with respect to the first plane because "one of ordinary skill in the art ... would have expected [the] Applicant's invention to perform equally well with the first plane and the second plane at an angle of zero degrees because the mask would still be able to be secured to the straps and placed on the patient's face." Applicant respectfully disagrees.

Mounting the headgear attachment points on a second plane that is at a non-zero angle with respect to the first plane on the faceplate dramatically increases the stability of the mask, because it moves the headgear attachment points to a location that is closer to the user's face than is the case if the headgear attachment points are at a zero angle with respect to the first plane. Stated another way, the lever moment of the headgear attachment point is moved close the central axis of the mask when the second plane is at a non-zero angle, thereby increasing mask stability. Moreover, providing the headgear attachment points in the second plane that is at an angle with the first plane also causes the run of the headgear strap to closely match the human facial structure, thereby allowing the headgear to apply its stabilizing force vectors in two directions, which is similar to the tie downs used for a tent corner pole.

This bi-directional headgear force application provides more stability for the mask at the same, or at a reduced headgear strap pressure, than is possible if the headgear attachment points are provided in the same plane as the faceplate, as taught by the '745 patent. Reducing the strapping force results in increased comfort for the patient, and a higher performance level for

the mask via increased stability. It can thus be appreciated that changing the position of the headgear attachment points improves the performance of the mask, completely undercutting the Examiner's assumption that the mask will perform equally well with the first plane and the second plane at an angle of zero degrees.

For the reasons presented above, applicant respectfully submits that independent claim 22 is not rendered obvious by the cited references. In addition, claims 23-29 are also not rendered obvious due to their dependency from independent claim 22-29. Accordingly, applicant respectfully requests that the above rejections of claim 22-29 be withdrawn.

All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to the effect is earnestly solicited.

Respectfully submitted,

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